IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 22293 of 2007(D)

PETITIONER:

SURABHI SUPREME MARBLES AND GRANITES PVT.LTD., REPRESENTED BY ITS MANAGING DIRECTOR, SHAJU AUGUSTINE, 111/133, PADAYATTIL HOUSE, KALLUPALAM ROAD, ANGAMALY, ERNAKULAM DISTRICT.

BY ADV. SRI.HARISH R. MENON
SRI.K.T.SHYAMKUMAR

RESPONDENTS:

1. THE DISTRICT COLLECTOR, ERNAKULAM.

2. THE GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
DISTRICT OFFICE, ERNAKULAM.

BY G.P. SHRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.22293 of 2007

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Dated this the 30th day of July, 2007

J U D G M E N T

The petitioner imported river sand from Tamilnadu into Kerala. The petitioner has the appropriate sales tax registration for the same. However, the petitioner is not permitted to transport the same within the State on the ground that the same is not accompanied by proper passes issued under the Kerala Minor Mineral Concession Rules. The petitioner submits that since this sand is imported from Tamilnadu, no passes are necessary, going by the Rules. Therefore, the petitioner seeks the following reliefs:

> "(i) issue a writ of mandamus or any other writ, order of direction directing the Respondents herein to permit the petitioner to import/procure river sand from Tamil Nadu and thereafter to sell the same to customers within the state.
>
> (ii) issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents herein to consider and pass appropriate orders on Exhibit P8 and P9 in accordance with law within a time limit to be prescribed by this Honourable Court."

2. The learned Government Pleader opposes the same.

According to him, if the same is not accompanied by proper passes, it would be difficult for the authorities to decide whether the same is sand imported from Tamil Nadu or mined from Kerala itself unauthorisedly.

3. I have considered the rival contentions in detail.

4. At the outset I must state that no general orders as prayed for by the petitioner can be issued, because that would be prone to be misused. However, the situation demands some orders in so far as the rules do not prescribe any pases in respect of the sand imported from Tamil Nadu. At the same time, the interest of the State also has to be protected in order to obviate the possibility of anybody transporting sand within the State in the guise of sand imported from Tamil Nadu. In the above circumstances, as and when sand is brought into Kerala, the petitioner shall file appropriate application before the District Collector, who shall consider the same and pass orders as to whether the same is legally brought into Kerala from Tamilnadu, within two weeks from the date of receipt of the same. Such order if holds that the sand has been brought into the State legally, would be treated as a pass required for the purpose of

transportation of sand so imported. In respect of sand which has already been imported by the petitioner covered by Exts.P2 to P7, the District Collector shall consider Ext.P8 and pass orders on the same within two weeks, which order shall be considered as a pass for that consignment.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.